

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 Office of Sales and Excise Taxes

4 (Amendment)

5 103 KAR 43:330. Measurement of compressed natural gas (CNG) and liquefied
6 natural gas (LNG) in gallons.

7 RELATES TO: KRS 138.210, 138.220, 138.250

8 STATUTORY AUTHORITY: KRS 131.130(1), 138.226(1), 138.250

9 NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the
10 Department of Revenue to promulgate administrative regulations for the administration
11 of all tax laws. KRS 138.226(1) authorizes the department to promulgate administrative
12 regulations necessary to administer gasoline and special fuel taxes. This administrative
13 regulation prescribes the method of measurement of compressed natural gas and
14 liquefied natural gas in gallons as a special fuel.

15 Section 1. Definitions. (1) "Compressed natural gas" means natural gas
16 compressed into high pressure fuel cylinders capable of being used to operate or propel
17 any vehicle on public roadways.

18 (2) "Special fuels" is defined in KRS 138.210(4)(b) and includes compressed
19 natural gas and liquefied natural gas.

20 (3) "Liquefied natural gas" means natural gas that has been converted to

1 liquid form for ease of storage or transport.

2 Section 2. Conversion Method. (1) For purposes of reporting the number of
3 gallons subject to the tax imposed by KRS 138.220 as required by KRS 138.250, every
4 special fuels dealer ~~[who manufactures compressed natural gas]~~ shall convert
5 compressed natural gas or liquefied natural gas into~~[the quantity produced from~~
6 ~~pounds to]~~ gallons.


7 (2) The conversion rate used shall be 5.66 pounds or 126.67 cubic feet of
8 compressed natural gas to one (1) gallon of special fuels.

9 (3) The conversion rate used shall be 6.06 pounds or 1.52 gallons of
10 liquefied natural gas to one (1) gallon of special fuels.

11 Section 3. (1) This administrative regulation shall replace Revenue Policy
12 72P105.

13 (2) Revenue Policy 72P105 is hereby rescinded and shall be null, void, and
14 unenforceable. (33 Ky.R. 2823; 3161; eff. 5-4-2007.)

Approved:

Handwritten signature of Thomas B. Miller in black ink.

Thomas B. Miller., Commissioner
Department of Revenue

4.8.2014

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on May 27, 2014 from 10:00 a.m. to 12:00 p.m., in Room 381, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business June 2, 2014. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Department of Revenue, 501 High Street, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-2541 (fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 103 KAR 43:330

Contact Person: Lisa Swiger
Phone Number: (502)564-9526

(1) Provide a brief summary of:

(a) What this administrative regulation does: Gives licensed dealers a standardized conversion measurement on alternative fuels for a diesel gallon equivalent.

(b) The necessity of this administrative regulation: Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG) are now alternative fuels used in motorized vehicles. They are usually measured in pounds, cubic feet, or an LNG gallon. Industry needs the conversion factors to meet the statutory requirement that they be taxed in gallons at a comparable rate to special fuels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of all tax laws. The proposed amendment updates the regulation to industry changes and provides the conversion factors to use for the tax computation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation standardizes the conversion factors to use when converting CNG and LNG measurement units to a taxable gallon.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment expands the regulation for CNG to cover the fuel when using a different unit of measurement for gallon conversion. It is also being expanded to address the conversion factor for LNG which is moving into the State.

(b) The necessity of the amendment to this administrative regulation: To provide licensed dealers standardized conversion factors for reporting and paying the motor fuel tax on alternative fuels.

(c) How the amendment conforms to the content of the authorizing statutes: The statute states the tax is based on gallons. Dealers need to know the conversion factors to report these alternative fuels in gallons equivalent to diesel fuel.

(d) How the amendment will assist in the effective administration of the statutes: By putting the conversion factors in the regulation, it provides licensed dealers a consistent and definitive way to convert these products into measurements equivalent to diesel gallons.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Markets for both CNG and LNG are just emerging. A few municipalities and waste management operations currently use CNG in this state. The transportation industry and alternative fuel dealers are beginning to invest in the LNG infrastructure for rollout in Kentucky. This proposed amendment provides guidance to facilitate these emerging markets.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. The entities will use the conversion factors specified for fuel reporting purposes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing additional.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Gives guidance to licensed dealers on what factors to use to convert the product into taxable gallons

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially- No new costs will be incurred beyond routine regulatory promulgation which the department already carries out.

(b) On a continuing basis: No new costs will be incurred beyond our normal administration of motor fuels taxes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Current department budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No new fees will be necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation #: 103 KAR 43:330

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only those which plan to deal in the sale or resale of CNG or LNG.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(1)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment provides a conversion factor for calculation of taxable gallons of fuel. It does not generate additional revenue but assists in preserving tax receipts when fuel in alternative forms is utilized.

(c) How much will it cost to administer this program for the first year? No additional costs.

(d) How much will it cost to administer this program for subsequent years? No additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-)

Expenditures (+/-)

Other Explanation: